

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

AVADEN LANDMARK, LLC,

Plaintiff,

vs.

PROVADO, INC.,

Defendant.

8:22CV396

**FINAL PROGRESSION ORDER
(AMENDED)**

After conferring with the parties,

IT IS ORDERED that Defendant's motion to extend the written discovery response deadline, (Filing No. 27), and Defendant's motion to amend the progression order, (Filing No. 28), are granted in part, as stated on the record, (see Filing No. 33, audio file), and as follows:

The final progression order is amended as follows:

- 1) The trial and pretrial conference will not be set at this time. A status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on **February 6, 2024 at 10:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadline for serving written discovery under Rules 33, 34, and 36 is not extended.
- 3) Defendant's deadline for serving objections to Plaintiff's written discovery requests is August 3, 2023. The parties shall meet and confer within seven days after any objections are served and promptly contact chambers if a conference with the court is necessary to resolve any disputes.
- 4) The deadline for serving any third-party subpoenas for document production under Rule 45 is September 6, 2023.
- 5) The deadline for responding to written discovery served under Rules 33, 34,

and 36 of the Federal Rules of Civil Procedure is August 23, 2023. Motions to compel written discovery under Rules 33, 34, and 36 must be filed by September 6, 2023.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 6) The deadlines for complete expert disclosures for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For Avaden (as Plaintiff) and
Provado (as Counterclaim Plaintiff) September 13, 2023.

For Provado (as Defendant) and
Avaden (as Counterclaim Defendant) November 13, 2023.

Rebuttal for Avaden (as Plaintiff)
And Provado (as Counterclaim Plaintiff): December 13, 2023.

- 7) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is January 12, 2024.
- 8) The deadline for filing motions to dismiss and motions for summary judgment is April 12, 2024.
- 9) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is February 12, 2024.
- 10) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 11) Only deadlines specifically amended in this order are affected, all other deadlines remain unchanged.
- 12) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.
- 13) All requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for

changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 24th day of July, 2023.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge